



U.S. Department of Justice
Environment and Natural Resources Division

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July 6, 2016

By Electronic Mail and Federal Express

LeClairRyan
One Riverfront Plaza
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Newark, New Jersey 07102

Re: PPG Industries, Inc. v. United States, No. 2:12-cv-03526-JMV-MAH (D.N.J.)

Dear Counsel:

In addition to our June 30, 2016 letter to you, we provide the following additional information below regarding the issues raised by your e-mail to us that afternoon, and regarding various other questions that you have raised. Please be further advised that we object to PPG's requests in its June 30, 2016 e-mail as contrary to the Court's June 28, 2016 Order (ECF No. 138) and the Federal Rules for the following specific reasons.

We suggest a meet-and-confer telephone call to discuss the following, and the matters discussed in our June 30, 2016 letter, with you at 4 pm on July 8, 2016.

A. Federal Records Centers and SF-135s

1. In our June 30, 2016 letter, we provided you with information to correct your misunderstandings regarding the SF-115s. This is not an FRC issue at all, and we consider it adequately addressed.

2. PPG unreasonably asks for SF-135 forms "relative to" five large Executive Branch agencies, including the entire Department of Defense. PPG in effect represents in its June 30, 2016 e-mail that records of each the five large agencies, and related SF-135s, are located at each of the FRCs listed by PPG. We have in the short time available to us determined that this representation is inaccurate, and that PPG apparently made it without trying to determine its accuracy. We discuss below the PPG request regarding the Department of Defense. We also

provide with this letter a table (Attachment A) showing the numerous Records Groups associated with each of the other four agencies, and the presence or absence of records for each of the Records Groups at each of the four FRCs described in your June 30, 2016 e-mail.

Of the 64 Records Groups for these agencies, please specify those to which you have unsuccessfully attempted to gain access to their SF-135 forms and documents, at which FRCs, when you were denied access, and by whom. Since this is information that you should already have, please provide this information no later than July 7, 2016.

3. The Court's Order requires only that the Government contact "relevant" federal agencies. We believe that the only "relevant" agencies are the FRCs to which PPG attempted to gain but was denied access in the past. Your refusals to provide this information is therefore a violation of the Court's June 28, 2016 Order.

4. We have contacted the four FRCs and the DOE Germantown, Maryland document storage facility. We have advised the four FRCs that PPG is interested in gaining access to their records and the related SF-135s, and that the Court in this case has ordered that the Government facilitate PPG's access to the unclassified documents PPG selects for review there. The Germantown facility is a DOE location, and therefore, no SF-135s have been generated for the records held there. The contact information with which you may arrange access to each of these five locations is as follows:

Atlanta FRC:

4712 Southpark Blvd.

Ellenwood, GA 30294

Appointments: Best practice is to set up an appointment via email and call again the morning of review

Email: atlanta.reference@nara.gov

Phone: 404-736-2820

Additional contact: Catherine Nolan, Transfer and Disposition Specialist

Hours of operation: M-F 7:30-3:00pm

Philadelphia FRC:

14700 Townsend Road

Philadelphia, PA 19154-1096

Appointments: Best practice to set up an appointment via email and call again the morning of review

Email: reference.philadelphia@nara.gov

Phone: 215-305-2000

Additional contact: Daniel Lee, Transfer and Disposition Specialist

Hours of operation: M-F 7:30-3:30pm

Seattle FRC:

6125 Sand Point Way, NE

Seattle, Washington, 98115-7999

Appointments: best practice to set up an appointment via email and call again the morning of review

Email: seattle.reference@nara.gov

Phone: 206-336-5129

Additional contact: Patrick Weigel, Transfer and Disposition Specialist

Hours of operation: M-F 8:30-3:30pm

Suitland FRC:

4205 Suitland Road

Suitland, MD 20746-8001

Appointments: best practice to set up an appointment via email and call
again the morning of review

Email: suitland.reference@nara.gov

Phone: 301-778-1650

Additional contact: Jessica Hartman, Ed Harris, or anyone who answers the phone

Hours of operation: M-F 8:00-4:00pm

Department of Energy – Germantown, Maryland:

9901 Germantown Rd.

Germantown, MD

Phone: 301-903-3000

Contact: Terry Fehner, DOE Historian

Hours of operation: No regular hours. To be arranged between PPG and the facility

5. We further object to PPG's efforts with respect to the Department of Energy classified and unclassified documents on the basis of irrelevance and undue burden. PPG's last-minute requests are grossly disproportional to the needs of even a case this size. *See* Fed. R. Civ. P. 26(b)(1). PPG has made no showing that there may be any pertinent documents at the DOE document storage facility, that the Government should be required to review any classified documents there, or that PPG's proposed review of the unclassified records of that facility is in any way warranted. Nevertheless, we are providing you a copy of the inventory of the files at the DOE storage facility on the CD enclosed with the hard copy of this letter, and have numbered the pages of it USNPR0039328 through USNPR0039649. This is the same inventory used by Justice Department researchers.

6. PPG's request as to the entire "Department of Defense" is also absurdly broad and unduly burdensome (Fed. R. Civ. P. 26(b)(1)). As your own research regarding the FRCs should have shown, (<http://www.archives.gov/research/alic/tools/record-group-clusters.html#air>), there are 190 Records Groups in nine categories for that agency. It is obvious that PPG has made no effort to actually review the SF-135s for these Record Groups or even try to narrow down its request for SF-135s in any way.

These Department of Defense Records Groups are as follows. Of the following Records Groups, please specify those to which you have unsuccessfully attempted to gain access to their SF-135 forms and documents, at which FRCs, when you were denied access, and by whom. We believe that the Court's order that the Government communicate with and facilitate PPG's access to "the relevant government agencies" presumes such a reasonable narrowing by PPG. This

information is needed in order for the Government to identify which of the FRCs have relevant SF-135 forms and advise those FRCs accordingly.

Air Force

18	Army Air Forces
243	U.S. Strategic Bombing Survey
340	Office of the Secretary of the Air Force
341	Headquarters U.S. Air Force (Air Staff)
342	U.S. Air Force Commands, Activities, and Organizations

Defense

218	U.S. Joint Chiefs of Staff
225	Joint Army and Navy Boards and Committees
226	Office of Strategic Services
238	National Archives Collection of World War II War Crimes Records
242	National Archives Collection of Foreign Records Seized
262	Foreign Broadcast Intelligence Service
263	Central Intelligence Agency
330	Office of the Secretary of Defense
333	International Military Agencies
334	Interservice Agencies
349	Joint Commands
361	Defense Logistics Agency
371	Defense Information Systems Agency
372	Defense Contract Audit Agency
373	Defense Intelligence Agency
374	Defense Nuclear Agency
446	Defense Investigative Service
456	Defense Mapping Agency
457	National Security Agency/Central Security Service

505	On-Site Inspection Agency
506	Defense Commissary Agency
507	Defense Finance and Accounting Service
509	Department of Defense Inspector General
518	U.S. Central Command
524	Defense Nuclear Facilities Safety Board
525	National Reconnaissance Office
528	U.S. Atlantic Command
529	U.S. Pacific Command
530	U.S. Southern Command
531	U.S. European Command
532	U.S. Space Command
533	U.S. Special Operations Command
534	U.S. Transportation Command
535	U.S. Strategic Command
537	National Imagery and Mapping Agency
558	Defense Contract Management Agency
565	Missile Defense Agency

Maritime

26	U.S. Coast Guard
32	U.S. Shipping Board
36	U.S. Customs Service
41	Bureau of Marine Inspection and Navigation
157	Maritime Labor Board
178	U.S. Maritime Administration
248	War Shipping Administration
357	Maritime Administration

358	Federal Maritime Commission
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Modern Army

77	Office of the Chief of Engineers
92	Office of the Quartermaster General
107	Office of the Secretary of War
111	Office of the Chief Signal Officer
112	Office of the Surgeon General (Army)
120	American Expeditionary Forces (World War I)
153	Office of the Judge Advocate General (Army)
156	Office of the Chief of Ordnance
159	Office of the Inspector General (Army)
160	Headquarters Army Service Forces
165	War Department General and Special Staffs
168	National Guard Bureau
175	Chemical Warfare Service
177	Chiefs of Arms
203	Chief of Finance (Army)
247	Office of the Chief of Chaplains
260	U.S. Occupation Headquarters, World War II
319	Army Staff
331	Allied Operational and Occupation Headquarters, World War II
332	U.S. Theaters of War, World War II
335	Office of the Secretary of the Army
336	Office of the Chief of Transportation
337	Headquarters Army Ground Forces
338	U.S. Army Commands, 1942-
389	Office of the Provost Marshal General, 1941-

391	U.S. Regular Army Mobile Units, 1821-1942
394	U.S. Army Continental Commands, 1920-1942
395	U.S. Army Overseas Operations and Commands, 1898-1942
407	Adjutant General's Office, 1917-
410	Office of the Chief of Support Services
472	U.S. Forces in Southeast Asia, 1950-1975
492	Mediterranean Theater of Operations, United States Army
493	U.S. Forces in the China-Burma-India Theaters of Operation
494	U.S. Army Forces in the Middle Pacific (World War II)
495	Headquarters, U.S. Army Forces, Western Pacific (World War II)
496	General Headquarters, Southwest Pacific Area and U.S. Army Forces, Pacific (World War II)
497	Africa-Middle East Theater of Operations (World War II)
498	Headquarters, European Theater of Operations, U.S. Army (World War II)
499	U.S. Army Defense Commands (World War II)
544	U.S. Army Materiel Command
546	U.S. Army Continental Command
547	U.S. Army Forces in Alaska
548	U.S. Army Forces in the Caribbean
549	U.S. Army, Europe
550	U.S. Army, Pacific
551	U.S. Army Military District of Washington
552	Military Traffic Management Command (Army)
553	U.S. Army Training and Doctrine Command
554	General Headquarters, Far East Command, Supreme Commander Allied Powers, and United Nations Command
555	U.S. Army Forces Command

Modern Navy

19	Bureau of Ships
24	Bureau of Naval Personnel
38	Office of the Chief of Naval Operations
52	Bureau of Medicine and Surgery
71	Bureau of Yards and Docks
72	Bureau of Aeronautics
74	Bureau of Ordnance
80	General Records of the Department of the Navy, 1798-1947
125	Judge Advocate General (Navy)
127	U.S. Marine Corps
143	Bureau of Supplies and Accounts (Navy)
181	Naval Districts and Shore Establishments
289	Naval Intelligence Command
298	Office of Naval Research
313	Naval Operating Forces
343	Naval Air Systems Command
344	Naval Ship Systems Command
345	Naval Electronic Systems Command
346	Naval Ordnance Systems Command
347	Naval Supply Systems Command
384	Chief of Naval Material
385	Naval Facilities Engineering Command
402	Bureau of Naval Weapons
428	General Records of the Department of the Navy, 1947-
526	Naval Criminal Investigative Service

Old Army

77	Office of the Chief of Engineers
92	Office of the Quartermaster General
93	War Department Collection of Revolutionary War Records
94	Adjutant General's Office, 1780's-1917
98	U.S. Army Commands, 1784-1821
105	Bureau of Refugees, Freedmen, and Abandoned Lands
107	Office of the Secretary of War
108	Headquarters of the Army
109	War Department Collection of Confederate Records
110	Provost Marshal General's Bureau (Civil War)
111	Office of the Chief Signal Officer
112	Office of the Surgeon General (Army)
153	Office of the Judge Advocate General (Army)
156	Office of the Chief of Ordnance
159	Office of the Inspector General (Army)
191	War Department Claims Board
213	Foreign Claims Section (War)
249	Commissary General of Prisoners
391	U.S. Regular Army Mobile Units, 1821-1942
392	U.S. Army Coast Artillery Districts and Defenses, 1901-1942
393	U.S. Army Continental Commands, 1821-1920
395	U.S. Army Overseas Operations and Commands, 1898-1942
407	Adjutant General's Office, 1917-

Old Army at College Park

18	Army Air Forces
99	Office of the Paymaster General

165	War Department General and Special Staffs
168	National Guard Bureau
177	Chiefs of Arms
192	Office of the Commissary General of Subsistence
203	Office of the Chief of Finance (Army)
247	Office of the Chief of Chaplains

Old Navy

19	Bureau of Ships
24	Bureau of Naval Personnel
37	Hydrographic Office
38	Office of the Chief of Naval Operations
45	Naval Records Collection of the Office of Naval Records and Library
52	Bureau of Medicine and Surgery
71	Bureau of Yards and Docks
72	Bureau of Aeronautics
74	Bureau of Ordnance
78	U.S. Naval Observatory
80	General Records of the Department of the Navy, 1798-1947
125	Office of the Judge Advocate General (Navy)
127	U.S. Marine Corps
143	Bureau of Supplies and Accounts (Navy)
181	Naval Districts and Shore Establishments
313	Naval Operating Forces

World War I Emergency Agencies

1	War Labor Policies Board
2	National War Labor Board (World War I)
3	U.S. Housing Corporation

4	U.S. Food Administration
5	U.S. Grain Corporation
6	U.S. Sugar Equalization Board, Inc.
14	U.S. Railroad Administration
61	War Industries Board
62	Council of National Defense
63	Committee on Public Information
67	U.S. Fuel Administration
113	Allied Purchasing Commission
154	War Finance Corporation
158	Capital Issues Committee
182	War Trade Board
190	Bureau of War Risk Litigation
194	War Minerals Relief Commission

Of these Records Groups, please specify those to which you have unsuccessfully attempted to gain access to their SF-135 forms and documents, at which FRCs, when you were denied access, and by whom. Since this is information that you should already have, please provide this information no later than July 7, 2016.

We also provide with this letter a table (Attachment B) showing the numerous Records Groups associated the Department of Defense, and the presence or absence of records for each of the Records Groups at each of the four FRCs described in your June 30, 2016 e-mail.

B. Department of Energy Records Storage in College Park, Maryland

We again ask that you identify who denied you access to Department of Energy records within RG 326 at this facility, when, and on what stated basis, if any. Without that information, we are unable to make the appropriate contacts at that facility and attempt to facilitate PPG's access to the unclassified documents, beyond the information already provided above.

This DOE facility stores classified and unclassified documents mixed together. Once specific folders of documents are requested for review, DOE personnel will have to separate classified from unclassified documentation, and access provided to PPG researchers only to the unclassified documents. This can be further explained by Terry Fehner, DOE Historian,

terry.fehner@hq.doe.gov or 301-903-3000. The separation process can be time-consuming, especially for expansive requests.

Moreover, we have been unable to discern any reason to believe that the eight groups of RG 326 records listed in your June 30 e-mail contain or are likely to lead to the discovery of admissible evidence. To assist us in attempting to determine whether there is any basis for your requests, please provide the source of these descriptions, and why you believe the classified or unclassified documents in these groups justify any review in this litigation.

C. Sorokowski Excel Spreadsheet

Also enclosed with this letter is a copy of Mr. Sorokowski's 159-page Excel spreadsheet regarding his research efforts in this litigation, which we have assigned bates numbers USNPR0039650 through USNPR0039808. Attachment C. This is the most recent archived version of Mr. Sorokowski's Excel spreadsheet regarding these efforts. The "Case" term that he used for this litigation was "PP." Because this spreadsheet contains work product for other matters on which Mr. Sorokowski worked, we have redacted the case information for those cases. Please note that, as Mr. Sorokowski testified, this spreadsheet does not encompass the entirety of Mr. Sorokowski's or the Government's research efforts in this matter.

D. New York "FRC"

You have also asked about the Government's research efforts in what I described as the New York FRC. My description was slightly inaccurate. The Government did in fact search for documents in the NARA New York City facility at Battery Park, in the American Indian History Museum, in June 2013. This was not a FRC facility as I had thought.

E. December 1999 NARA Records Disposition Freeze.

As noted in our June 30, 2016 letter to you, in January 2016, the Government produced to PPG a copy of a December 1999 NARA directive that the scheduled disposition of "all" records in "all" FRCs in Record Groups 234 and 270, for the Reconstruction Finance Corp. and its subsidiaries such as the Metals Reserve Corp. "be frozen until further notice." June 30, 2016 Attachment 4. While PPG has offered no basis on which to question the continued effectiveness of this freeze, you have nevertheless raised that issue.

Please be advised that we have confirmed with NARA that this 1999 records disposition freeze remains in effect.

Sincerely,

/s/ *Lewis M. Barr*

Lewis M. Barr